

AMENDED IN ASSEMBLY APRIL 10, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1783

Introduced by Assembly Member Perea

February 21, 2012

An act to amend Section 14839.1 of, and to add Section 14839.2 to, the Government Code, and to amend Section 2002 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1783, as amended, Perea. Public contracts: small business preferences.

Existing law requires state agencies to give small businesses a 5% preference in contracts for construction, the procurement of goods, or the delivery of services and services, establishes a procedure by which a business can be certified as a small business by the Department of General Services for the purposes of these preferences, and specifies that a business that has been certified by, or on behalf of, another governmental entity may be eligible for certification as a small business if the certifying entity uses substantially the same or more stringent definitions as those set forth in existing law, as provided.

This bill would ~~provide that a small business shall be certified as a small business, for purposes of those preferences, without the submission of supporting documentation and would require the certified small business to produce that documentation upon request of the Department of General Services or the awarding state agency~~ *revise the small business certification procedure to provide that the Department of General Services has the sole responsibility for certifying and determining eligibility of small businesses and would provide that local*

agencies have access to the department's list of certified small businesses.

Existing law also authorizes a local agency to provide for a small business preference in construction, the procurement of goods, or the delivery of services, and to establish a subcontracting participation goal for small businesses on contracts with a preference for those bidders who meet the goal. Existing law authorizes each local agency to define a small business for the purposes of these preferences and goals.

~~This bill would require the local agency to include a certified small business, certified at the state level, as a small business for local preference and goal purposes and would authorize a local agency to set additional guidelines for local preference purposes.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14839.1 of the Government Code is
- 2 amended to read:
- 3 14839.1. (a) ~~Except as provided in subdivision (b), the~~*The*
- 4 department shall have sole responsibility for certifying and
- 5 determining the eligibility of small businesses and microbusinesses
- 6 under this chapter.
- 7 (b) *Local agencies shall have access to the department's list of*
- 8 *certified small businesses on the department's Internet Web site,*
- 9 *which is available to the public, for use as a reference guide to*
- 10 *confirm a small business certification.*
- 11 ~~(b) Notwithstanding subdivision (a), a business that has been~~
- 12 ~~certified by, or on behalf of, another governmental entity may be~~
- 13 ~~eligible for certification as a small business if the certifying entity~~
- 14 ~~uses substantially the same or more stringent definitions as those~~
- 15 ~~set forth in Section 14837 and substantially the same or a more~~
- 16 ~~stringent certification analysis than that used by the department~~
- 17 ~~pursuant to this chapter.~~
- 18 ~~(c) Notwithstanding any other provision, a small business shall~~
- 19 ~~be certified by the department as a certified small business upon~~
- 20 ~~application to the department and shall not be required to submit~~
- 21 ~~the supporting documentation at that time. The certified small~~
- 22 ~~business, upon request of the department, shall provide the~~

1 ~~eligibility documentation to the department for the purposes of~~
2 ~~this article.~~

3 ~~SEC. 2. Section 14839.2 is added to the Government Code, to~~
4 ~~read:~~

5 ~~14839.2. (a) A certified small business that is bidding on, or~~
6 ~~has been awarded, a state agency contract shall, upon the request~~
7 ~~of the awarding state agency, provide the documentation supporting~~
8 ~~its eligibility as a certified small business.~~

9 ~~(b) For purposes of this section, “awarding state agency” means~~
10 ~~a state agency or other state governmental agency that awarded~~
11 ~~the contract, if it was not awarded by the department.~~

12 ~~SEC. 3.~~

13 ~~SEC. 2. Section 2002 of the Public Contract Code is amended~~
14 ~~to read:~~

15 ~~2002. (a) Notwithstanding any other provision of law requiring~~
16 ~~a local agency to award contracts to the lowest responsible bidder,~~
17 ~~any local agency may do any of the following in facilitating~~
18 ~~contract awards to small businesses:~~

19 ~~(1) Provide for a small business preference in construction, the~~
20 ~~procurement of goods, or the delivery of services where~~
21 ~~responsibility and quality are equal. The preference to a small~~
22 ~~business shall be up to 5 percent of the lowest responsible bidder~~
23 ~~meeting specifications.~~

24 ~~(2) Establish a subcontracting participation goal for small~~
25 ~~businesses on contracts and grant a preference, up to a maximum~~
26 ~~of 5 percent, to those bidders who meet the goal.~~

27 ~~(3) Require bidders to make good faith efforts to meet a~~
28 ~~subcontracting participation goal for small business contracts.~~
29 ~~Bidders that fail to meet the goal shall demonstrate that they made~~
30 ~~good faith efforts to utilize small business contractors.~~

31 ~~(4) Set additional guidelines for local preference purposes.~~

32 ~~(b) The term “small business,” as used in this section, shall be~~
33 ~~defined by each local agency.~~

34 ~~(c) Notwithstanding subdivision (b), “small business” shall~~
35 ~~include a small business enterprise certified pursuant to Article 1~~
36 ~~(commencing with Section 14835) of Chapter 6.5 of Part 5.5 of~~
37 ~~Division 3 of Title 2 of the Government Code.~~